GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Energy Department – Electricity Duty - Payment to Government – Proposal to recover the Electricity Duty from the Consumers of Chargeable Categories – Orders – Issued.

ENERGY (POWER.III) DEPARTMENT

G.O. Ms. No.22 Dated:23.10.2023

Read:

G.O.Ms.No.7, Energy (Power. III) Department, dated: 8.04.2022.

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O R D E R:

In the G.O. read above, the Government of Andhra Pradesh have notified the levy of Electricity Duty of one (1) Rupee per KWh (Unit) on Energy Sales for the Commercial and Industrial consumers as indicated in the relevant yearly Retail Supply Tariff Order issued by Hon'ble APERC; while continuing to levy the existing electricity duty of 6 paise per KWh (unit) for domestic consumers and exempting Agriculture consumers from levy of any such duty.

2. The decision to enhance the rate of the electricity duty to Rs.1/- from 6 ps. notified under G.O. Ms. No. 7, dt. 8.04.2022 was subject matter of challenge before the High Court. The High Court by its common judgement dt. 15.09.2023 was pleased to uphold the said G.O. Ms. No. 7, dt. 8.04.2022, but, however, for want of sanction under Section 7 of the Andhra Pradesh Electricity Duty Act, 1939, the High Court has held that such duty amounts could not have been recovered by the DISCOMs from the above consumers. The Government and the DISCOMs are pursuing legal remedies by filing Writ Appeals against the common judgement dt. 15.09.2023. Meanwhile, several parties are filing Writ Petitions seeking to be covered by the said common judgement dt. 15-9-2023 to resist recovery of the enhanced electricity duty of Rs.1 per KWh (Unit) which affects the finances of the State Government.

3. Without prejudice to the Government's stand that the levy as undertaken pursuant to the G.O. Ms. No. 7, dt. 8.04.2022 is strictly in accordance with law and in accordance with the sanction as obtained in G.O. Ms. No. 277 (Energy & Forests (Pr. III) Department), dt. 9.12.1994. However, as an abundant precaution, Government after careful examination of the above issue and in exercise of the powers under sub-section (1) of Section 7 of the Andhra Pradesh Electricity Duty Act, 1939 (as amended from time to time):-

a. Accords permission to the Licensees / DISCOMs (APCPDCL, APSPDCL and APEPDCL) to recover the Electricity Duty at the rate(s) and from the consumers / class of consumers as notified in the G.O. Ms. No. 7, Energy (Power. III) Department, dated: 8.04.2022, to whom energy is sold at a price of more than 12 paise per unit, subject to the following conditions:-

i. The electricity duty recoverable from such consumer or class of consumers shall not be a part of the price charged for the energy sold by the Licensees / DISCOMs.

ii. The duty recoverable from a consumer or class of consumers shall be a first charge on the amounts recoverable by the Licensees / DISCOMs for the energy supplied by the Licensees / DISCOMs and shall be a debt due by the Licensees / DISCOMs to the State Government.

Provided that, where the Licensees / DISCOMs have been unable to recover the amounts due from the consumer for the energy supplied by it, the Licensees / DISCOMs shall not be liable to pay the duty in respect of the energy so supplied.

iii. The Licensees / DISCOMs shall show separately the electricity duty amount recoverable from a consumer or class of consumers in the bills sent by the Licensees / DISCOMs to the consumers for collection of C.C charges, provided that in respect of supply to other Licensees, Licensees / DISCOMs shall not show any electricity duty amount recoverable from them.

iv. The Licensees / DISCOMs shall exercise the powers under Andhra Pradesh Electricity Regulatory Commission (Electricity Supply Code) Regulation, 2004 read with section 50 of the Electricity Act, 2003 if any consumer defaults to pay the electricity duty as permitted by the Government.

v. Any sum due from the consumers on account of electricity duty, if not paid within the due date and in the manner prescribed, shall be deemed to be in arrears and thereupon, interest at the periodic percentage rate equivalent to such rate, as is specified for defaulted consumption charges in the applicable APERC Retail Supply Tariff Orders for the relevant consumer category, shall be payable on each sum; and the sum, together with any interest thereon, shall be recoverable either through a Civil Court or as an arrear of Land Revenue at the option of the Government.

vi. In case of dispute regarding the electricity duty recoverable from any consumer or class of consumers, the matter shall be referred to the Andhra Pradesh Electricity Regulatory Commission (APERC) for decision.

4. The Chairman & Managing Director, APSPDCL/APEPDCL/APCPDCL, Tirupati/Visakhapatnam/ Vijayawada shall take necessary action accordingly.

5. This order issues with the concurrence of Finance Department vide their U.O. No. FIN01-FMU0MISC/248/2020-AS-9 (C.No.1159425), Dated:20.10.2023.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K. VIJAYANAND
SPECIAL CHIEF SECRETARY TO
GOVERNMENT

To
The Chairman & Managing Director,
APSPDCL/APEPDCL/APCPDCL, Tirupati/Visakhapatnam/Vijayawada.
The Director of Electrical Safety & Chief Electrical Inspector to Govt., Guntur.

Copy to:
The Managing Director, APGENCO, Vijayawada.
The Chairman & Managing Director, APTRANSCO, Vijayawada.
The Member Convenor, APPCC, Vijayawada.
The Commission Secretary, Andhra Pradesh Electricity Regulatory Commission.
The P.S. to Minister for Energy, EFS & T, Mines & Geology.
The P.S to Special Chief Secretary to Govt, Finance Dept.
The P.S to Special Chief Secretary to Govt, Energy Dept.
SF/SC (Computer No: 78934)

// FORWARDED: BY ORDER //

SECTION OFFICER